IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH JAIPUR.
O R D E R
Ishrat Hussain Vs. State

SB CRIMINAL MISC.PETITION NO.**367/2005**
u/S.482 Cr.P.C.

Date of Order :- **13/11/2006.**

PRESENT
HON'BLE MR.JUSTICE HARBANS LAL

Mr. Lokesh Sharma for the petitioner.
Mr. Arun Sharma P.P. for the State.

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BY THE COURT:-

The instant petition under Section 482 Cr.P.C. seeks quashing of the order dated 13/1/2005 of the learned Additional Sessions Judge No.2, Bundi in Cr.Revision No.21/03 whereby the revision has been dismissed and the order dated 20/4/1999 passed by the learned Chief Judicial Magistrate, Bundi in Cr.Case No.371/1989 taking cognizance against the petitioner and others for offences u/Ss.120-B, 188, 223 and 224 I.P.C. has been upheld.

2) Relevant facts are that a criminal trial in Cr.Case No.371/1999 for offences u/Ss.427, 447 and 455 I.P.C. was pending in which petitioner was also one of the accused. He surrendered before the court on 22/7/1998 and was ordered to be sent to judicial custody. A news item was published in daily Hindi newspaper Dainik Navjyoti that instead of taking him into custody he was kept in the hospital and was permitted to stay in a hotel. An inquiry was initiated and

cognizance was ultimately taken by the learned Chief Judicial Magistrate against the petitioner and other accused persons which order was challenged by way of revision petition before the learned court below but as indicated above, the same was dismissed by the impugned-order. Hence, this petition.

3) It is contended by his learned counsel that the court taking cognizance under Section 190 Cr.P.C. was incompetent to take cognizance in the manner in which it has been taken on the basis of a newspaper report. A newspaper report, it is submitted, is not a reliable piece of evidence. He has also submitted that the jail authorities were well within their powers to keep the ailing accused in hospital. The petitioner cannot be said to be even prima-facie liable for any of the alleged offences.

4) Learned Public Prosecutor has supported the orders of the courts below.

5) I have carefully considered the submissions in the light of the available material and have perused the impugned-order of the revisional court as well as order of the trial court and other materials on record.

6) It is manifest from a perusal of the order of the trial court as affirmed by the revisional court that the trial court has taken cognizance of the alleged offences on the basis of the materials and evidence on record. The trial court has given cogent reasons for taking cognizance of the alleged offences. The

revisional court has also considered in detail and in right perspective all the contentions raised before it. I do not find any cogent or valid reason to interfere in these orders in exercise of the inherent powers of this Court u/S.482 Cr.P.C.

7) This petition seems to have been filed to circumvent the bar on filing of second revision provided u/S.397(3) Cr.P.C. which is not legally permissible. It is well-settled that the inherent powers vested in this Court u/S.482 Cr.P.C. are to be and ought to be exercised very sparingly and with circumspection to prevent the abuse of the process of the court or to secure the ends of justice. As rightly contended by the learned Public Prosecutor, there is neither any abuse of the process of the court in this case nor it is otherwise essential to invoke the inherent jurisdiction of this Court for securing the ends of justice.

8) In this view of the matter, therefore, this petition deserves to be dismissed.

Consequently, this petition u/S.482 Cr.P.C. having no merit and substance is hereby dismissed.

(HARBANS LAL), J.

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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH JAIPUR.
O R D E R
Ishrat Hussain Vs. State

S.B.CR.MISC.STAY APPLICATION NO.447/2005.
IN
SB CRIMINAL MISC.PETITION NO.367/2005
u/S.482 Cr.P.C.

Date of Order :- 13/11/2006.

PRESENT
HON'BLE MR.JUSTICE HARBANS LAL

Mr. Lokesh Sharma for the petitioner.
Mr. Arun Sharma P.P. for the State.

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BY THE COURT:-

This stay application u/S.482 Cr.P.C. is disposed of in view of the disposal of the main petition today.

(HARBANS LAL), J.

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